

1 THE HONORABLE THOMAS S. ZILLY
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 STEVEN SILVERBERG, Individually and on
10 Behalf of All Others Similarly Situated,

11 Plaintiff,

12 v.

13 ZILLOW GROUP, INC., RICHARD
14 BARTON, ALLEN PARKER, AND JEREMY
WACKSMAN,

Defendants.

15 No. 2:21-CV-01567-TSZ

16 **STIPULATION AND ORDER (1)
EXTENDING TIME TO RESPOND
TO COMPLAINT; AND (2) SETTING
BRIEFING SCHEDULE ON ANY
MOTION TO DISMISS**

17 Plaintiff Steven Silverberg ("Plaintiff") and Defendants Zillow Group, Inc., Richard
18 Barton, Allen Parker, and Jeremy Wacksman (collectively, "Defendants") hereby stipulate and
19 agree as follows:

20 WHEREAS, on November 19, 2021, Plaintiff filed the complaint in the above-captioned
21 action ("Action"), a putative class action arising under the Securities Exchange Act of 1934
22 ("Exchange Act"), including the Private Securities Litigation Reform Act of 1995 (the
23 "PSLRA"), 15 U.S.C. § 78u-4, against Defendants;

24 WHEREAS, on November 16, 2021, a complaint alleging substantially similar
25 allegations as those alleged in this Action was filed and is currently pending before this Court,
see Barua v. Zillow Group, Inc., et al., No. 2:21-cv-01551-TSZ (W.D. Wash.) ("Barua Action");

1 WHEREAS, Section 21D(a)(3)(A)(i) of the PSLRA, 15 U.S.C. 78u-4(a)(3)(A)(i),
2 requires a plaintiff to cause a public notice to be filed within 20 days of filing a putative class
3 action that arises under the PSLRA, which notice the plaintiff in the Barua Action published on
4 November 16, 2021;

5 WHEREAS, on December 6, 2021, the Court entered an Order Regarding Initial
6 Disclosures, Joint Status Report, and Early Settlement (Dkt #5) in the Action setting January 21,
7 2022 as the deadline for the Federal Rule of Civil Procedure 26(f) Conference and February 4,
8 2022 as the deadline for initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)
9 and the filing of a Combined Joint Status Report and Discovery Plan pursuant to Federal Rule of
10 Civil Procedure 26(f) and Local Rules W.D. Wash. LCR 26(f);

11 WHEREAS, any purported class member has 60 days from the date the notice was
12 published to move the Court to serve as lead plaintiff on behalf of the putative class, 15 U.S.C. §
13 78u-4(a)(3)(A)(i)(II), making lead plaintiff motions due January 18, 2022;

14 WHEREAS, pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(i), the Court shall appoint a lead
15 plaintiff no later than 90 days after the notice was published, or by February 14, 2022;

16 WHEREAS, once selected, the lead plaintiff will then appoint lead counsel, subject to the
17 Court's approval, 15 U.S.C. § 78u-4(a)(3)(B)(v), and identify an operative complaint or file an
18 amended complaint that becomes the operative complaint;

19 WHEREAS, the filing of initial disclosures and a discovery plan would be premature
20 because all discovery, including initial disclosures, in this Action is subject to the discovery stay
21 provisions of the PSLRA. See 15 U.S.C. § 78u-4(b)(3)(B) ("all discovery and other proceedings
22 shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the
23 motion of any party that particularized discovery is necessary to preserve evidence or to prevent
24 undue prejudice to that party"); and

25 WHEREAS, the PSLRA also provides that, "[i]f more than one action on behalf of a
26 class asserting substantially the same claim or claims arising under [the Exchange Act] has been

1 filed, and any party has sought to consolidate those actions," the Court shall make a
2 determination regarding consolidation before appointing the lead plaintiff, 15 U.S.C. § 78u-
3 4(a)(3)(B)(ii);

4 WHEREAS, the parties anticipate that, concurrent with the process for appointing a lead
5 plaintiff, one or more proposed lead plaintiffs will also move to consolidate this Action with the
6 Barua Action;

7 WHEREAS, given the lead plaintiff process and the likely consolidation of this Action
8 and the Barua Action, it is highly unlikely that the initial complaint filed in this matter will be the
9 operative complaint. Therefore, it would waste the parties' and the Court's resources for
10 Defendants to respond to the initial complaint;

11 WHEREAS, undersigned counsel for Defendants hereby accepts service of summons on
12 behalf of each of the Defendants, without waiving any defenses other than sufficiency of service;

13 WHEREAS, the parties agree that in the interests of judicial economy, conservation of
14 time and resources, and orderly management of this Action, no response to any pleading in this
15 Action, including any motion brought pursuant to Federal Rule of Civil Procedure 12, should
16 occur until after a lead plaintiff and lead counsel are appointed by the Court pursuant to the
17 PSLRA and an amended complaint has been filed or an operative complaint designated;

18 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between
19 the undersigned counsel for the undersigned parties, subject to Court approval, as follows:

20 1. Counsel for Defendants accepts service of process for all Defendants in this
21 Action. Defendants' acceptance of service does not waive any of the Defendants' rights or
22 defenses in this action, including, but not limited to, any jurisdictional defense, including lack of
23 personal jurisdiction, other than as to the sufficiency of service.

24 2. Defendants are not required to respond to the complaint previously filed in this
25 Action.

1 3. After the appointment of a lead plaintiff pursuant to 15 U.S.C. § 78u-4(a)(3)(B),
 2 lead plaintiff and Defendants shall promptly meet and confer regarding a schedule for the filing
 3 of a consolidated complaint or designation of an operative complaint, and a briefing schedule for
 4 Defendants' anticipated motion(s) to dismiss. The parties shall meet and confer and submit a
 5 joint stipulation with a proposed schedule no later than fourteen (14) business days following the
 6 appointment of lead plaintiff.

7 4. Pursuant to the discovery stay provisions of the PSLRA, all discovery related
 8 deadlines are vacated until after a ruling on the Defendants' anticipated motion to dismiss.

9 5. Nothing herein shall be deemed to constitute a waiver of any rights, defenses,
 10 objections or any other application to any court that any party may have with respect to the
 11 claims set forth in the complaint filed in this Action.

12
 13 DATED: December 20, 2021

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STIPULATION EXTENDING TIME TO RESPOND TO
 COMPLAINT AND SETTING BRIEFING SCHEDULE
 (No. 2:21-cv-01567-TSZ) - 4

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ORDER

Pursuant to the above Stipulation, **IT IS SO ORDERED.**

Dated this 21st day of December, 2021.


Thomas S. Zilly
United States District Judge

Presented by:

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